ST 00-0148-GIL 07/19/2000 RETURNS

This letter rescinds a prior General Information Letter written on July 17, 2000 and describes the procedure for reporting deductions relating to refunds of tax given to customers for returned merchandise. See 86 Ill. Adm. Code 130.401. (This is a GIL).

July 19, 2000

Dear Xxxxx:

This letter is to rescind our prior letter to you dated July 17, 2000. This letter is a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found on the Department's Internet website at http://www.revenue.state.il.us/legalinformation/regs/part1200.

In your original letter, you have stated and made inquiry as follows:

> The purpose of this letter is to obtain a waiver for filing multiple amended returns due to customer returned sales. We understand there is a need for an occasional amended return to correct mistakes or to incorporate information that may not have been available at the time the original return was filed. Such requirements are reasonable. Our request is one that examines the cost of record keeping as well as practicality.
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> COMPANY manufactures and sells building materials, products and related services. Last year, we had sales in excess of $700,000,000 in more than a dozen states. Returned sales are simply a part of business, and as business grows, so do returned sales, exchanges and credits. Our manner of reporting such returned sales in Illinois has been to report them as deductions on line 2 (line 5 of the worksheet) as cash refunds. Last week, however, we were informed by the Illinois Department of Revenue that this deduction was only for sales and returns that originated and concluded in the same month. For all other circumstances, we need to file amended returns for the period of the original sale. This means we could be filing one original return plus up to 12 more amended returns each month…up to 150+ returns a year!
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> Yes, 150 amended returns a year is a bit ridiculous, but it is realistic to expect 2 or 3 returned sales a month, totaling 30-40 amended returns a year. COMPANY reports & collects sales tax on the state’s behalf as its agent. We ask you to grant our request, allow us to report and take credit for customer returns in the month of the refund, and waive the requirement to file amended of the original sales month on customer refunds/returns.

Our original response was:

> Section 3 of the Retailers' Occupation Tax Act, 35 ILCS 120/3, states that "[r]efunds made by the seller during the preceding return period to purchasers, on account of tangible personal property returned to the seller, shall be allowed as a deduction under subdivision 5 of his monthly or quarterly return, as the case may be, in case the seller had theretofore included the receipts from the sale of such tangible personal property in a return filed by him and had paid the tax imposed by this Act with respect to such receipts."
>
> Please note that this refund provision applies to sales made during the "preceding return period." For example, a refund made during the month of February for a sale that took place in January of that same year would be reported in the above manner. Refunds given to customers for purchases that took place in earlier periods must be claimed on amended returns/claims for credit or refund as required by Section 6a of the Retailers' Occupation Tax Act, 35 ILCS 120/6a. These requirements are statutorily mandated and the Department has no authority to waive them.

The interpretation regarding Section 3 of the Retailers' Occupation Tax Act is incorrect. The seller may report refunds of tax to purchasers on returns of merchandise that were made during the preceding return period as long as the seller had reported the sale and paid the tax to the Department on the original sale. See subsection (b) of the enclosed copy of 86 Ill. Adm. Code 130.401. Please note that this deduction allowance is only for refunds of tax made by the seller for returned merchandise.

In our telephone conversation, you asked about how to handle instances when the amounts refunded for returned merchandise being reported for a specific return period exceed the taxpayer's gross receipts for that reporting period. In the unlikely event this would occur, this would result in a negative balance on the return. Sellers are prohibited from filing sales tax returns with negative balances. If this situation occurs, the taxpayer must file an amended return for the period in which the original sale or sales took place.

We apologize for the inaccuracy in the original letter and any confusion it may have caused.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) referenced above.

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk
Enc.